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PATENT AND TRADEMARK AGENTS

AGENTS DE BREVETS ET DE MARQUES

GP3635  
#10

23 November 2001

55 ST-JACQUES, MONTRÉAL,  
QUÉBEC, CANADA H2Y 3X2

BY COURIER

### IN THE U.S. PATENT AND TRADEMARK OFFICE

Inventor: Jean-Louis BÉLIVEAU

Application No. 09/598,956

Filed on June 22, 2000

Title: STACKABLE CONSTRUCTION PANEL

Group art unit: 3635

Examiner: Carl D. Friedman

O/Ref.: 27266-0024

RECEIVED  
NOV 28 2001  
GROUP 3600

TO THE COMMISSIONER OF PATENTS  
AND TRADEMARKS  
WASHINGTON, D.C. 20231  
U.S.A.

### LETTER

SIR:

The Applicant acknowledges receipt of the Office Action dated September 28, 2001.

The Applicant has noted the Examiner's rejection of claims 1, 2, 5, 6 and 9 to 13 under 35 U.S.C. 102(b) as being anticipated by Beliveau (CA 2,256,091). Applicant however respectfully traverses this rejection for the following reasons.

It is the Applicant's belief that Beliveau is not opposable to the present application under 35 U.S.A. 102(b). This reference is a pending Canadian

patent application which has not yet issued to patent. Therefore, it cannot be considered that subject matter therein has been patented more than one year prior to the date of application in the United States for the present invention. Further, this patent application was published on June 23<sup>rd</sup>, 2000, and therefore does not constitute a printed publication more than one year prior to the date of application for patent in the United States. This document therefore does not correspond to any of the conditions of 35 U.S.C. 102(b), and the Examiner is respectfully requested to remove his rejection on this basis.

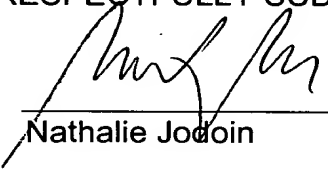
The Examiner has also rejected claims 3, 4, 7 and 8 under 35 U.S.C. 103(a) as being obvious over the same Beliveau reference. The Applicant believes that this rejection is rendered moot by the arguments stated above.

The Applicant further suggests that even if the Beliveau reference was citable prior art, it could not have anticipated the invention as claimed herein because it does not disclose nor suggest a stackable insulating foam panel having top and bottom sides, each including a single median row of alternating projections and recesses. It neither discloses to dispose such a median row between two coplanar edge surfaces. The Beliveau reference only discloses a construction panel with a top and a bottom side provided with recesses and projections giving to said top and bottom sides the appearance of a checkerboard. Therefore, the Applicant respectfully submits that even if the Beliveau reference was opposable, it would not have been relevant to the invention.

For these reasons, the Applicant believes that no applicable prior art has been opposed to the claims on file. Reconsideration for allowance is accordingly respectfully requested.

RESPECTFULLY SUBMITTED,

By:



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Encl.

- A/R Card.

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